



Workers Compensation Commission Decisions

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Hulme v Secretary, Department of Education and Communities [2018] NSWWC 35

Decision date: 8 February 2018

Decision maker: Arbitrator Wardell

- > Can permanent impairment resulting from primary physical injury and primary psychological injury be combined for the purposes of s 39(2)?

Result

- > No. S65A(2) applies to s39 “assessments”.

Youssef v Ikea Pty Ltd [2018] NSW WCC 37

Decision date: 8 February 2018

Decision maker: Arbitrator Egan

- > Does the legislation allow a worker to amend a post 2012 WPI claim for the purpose of claiming “further impairment”?

Result

- > The consequences of s66(1A) cannot be avoided.

Paterson v Paterson Panel Workz Pty Limited [2018] NSWWCC 83

Decision date: 26 March 2018

Decision maker: Senior Arbitrator McDonald

- > Does the Commission have jurisdiction to make an award in favour of a worker who resides outside the Commonwealth and where the worker has received more than 130 weeks of compensation?

Result

- > If the Commission does not have jurisdiction to resolve a dispute in relation to weekly payments then it does not have the power to make an award in the worker's favour so that s53 would apply.
- > ***This is on Appeal.***

Pacific National v Baldacchino [2018] NSWCCPD 12

Decision date: 28 March 2018

Decision maker: Deputy President Michael Snell

Circumstances

- > Your client is *past retirement age* and needs a knee replacement (an artificial aid). Is the insurer liable for the cost of the treatment?

Result

- > Yes! Section 59A(6)(a) of the *Workers Compensation Act 1987*: a total knee replacement is exempted from the application of s 59A(1) as it is an ‘artificial aid’.

De Vries v Bega Valley Shire Council [2018] NSWWC 22

Decision date: 30 January 2018

Decision maker: Arbitrator Harris

- > Does Rule 15.3 of the Workers Compensation Commission (WCC) Rules provide the WCC the power to order that a worker attend a respondent medical examination?

Knezevic v Laticrete Pty Ltd [2018] NSWCCPD 11

Decision date: 19 March 2018

Decision maker: Deputy President Elizabeth Wood

- > Where the compensation claimed includes a claim for lump sum benefits pursuant to s 25(1)(a) of the 1987 Act. Rule 10.5(1) of the 2011 Rules mandates that in respect of such a claim, all dependants are to be joined as parties to the proceedings.
- > To draw an inference it must be available on the evidence.

Mark Proctor v Paragon Risk Management Pty Ltd ***[2018] NSWCCMA 7***

Decision date: 15 February 2018

Decision maker: Appeal Panel constituted by Arbitrator John Wynyard and AMS Dr Drew Dixon and AMS Dr David Croker

- > How is the question of '*whether the degree of permanent impairment is fully ascertainable*' characterised?

Result

- > It is defined *both* as a medical dispute pursuant to s 319(g) 1998 Act and one in which the assessment is conclusively presumed to be correct pursuant to s 326(e) of the 1998 Act.



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